

REMARKS

The Examiner's attention to the present application is greatly appreciated.

In the Office Action of May 31, 2005, the Examiner made various objections and rejections.

First, the Examiner rejected Claims 11 and 28 suggesting alternative non-substantive changes to clarify claim language. To this end, the Applicant has made the changes requested by the Examiner.

The Examiner also indicated that he would treat the claims using the broadest reasonable interpretation unless the Applicant responds invoking 35 U.S.C. § 112, paragraph 6. In response to this statement, Applicant does not invoke 35 U.S.C. § 112, paragraph 6.

Finally, the Examiner rejected each of the remaining claims under 35 U.S.C. § 103. This rejection is addressed in the section that follows.

Claims 11 - 20 and 28 - 36 are pending in the instant Application. Claims 11 and 28 have been amended above. The amendments have been to clarify the distinction between Applicant's primary seller and the virtual seller. In particular, the present invention is directed to a method for selling the goods of the primary seller. Meanwhile, the goods and services are not those of the virtual seller which does not maintain primary seller's inventory as its own

inventory. Instead, the virtual seller is selectively engaged to sell the goods or services of another, namely that of the primary seller. To clarify this distinction, Applicant has amended Claims 11 and 28 to include the language that the virtual seller does not possess “custody or control of the goods or services of the primary seller” but does maintain a database storing the product information so as to effect sales transactions. Support for the amendment can be found in the Specification on page 20, last paragraph, and throughout the rest of the Specification which explains that the virtual seller is not selling its own goods, but instead is selling those of the primary seller.

Reexamination, reconsideration and allowance of the claims is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

In the recent Office Action, the Examiner rejected the claims, primarily in view of *Ahluwalia* (U.S. Patent No. 6,728,685) in view of *Roberts* (U.S. Patent No. 6,295,511).

Roberts

Roberts discloses a network system for facilitating the negotiation and purchase of goods or services including a first real time communication link over a network for communicating transaction data and a second communication link for transmitting voice. As explained by the Examiner, *Roberts* also teaches accessing a second sales operator when a first sales operator is not accessible. However, as not explained by the Examiner, both the first and second sales operators are employees of a primary seller. *Roberts* does not provide

any suggestion for utilizing a virtual seller, which is not the primary seller, but instead is a separate entity that maintains a database of the primary seller for selling the primary seller's goods such as when the primary seller is not available.

Ahluwalia

This reference discloses an internet website for selling cars, specifically those of the Ford Motor Company. This reference also does not provide any suggestion for a “virtual” seller in the event that the primary sales operator, in this case the Ford Motor Company, is not available. Nevertheless, the Examiner argues that it would be obvious to include a virtual seller since it has been held that mere duplication of the essential working parts involves only routine skill in the art.

The Combination of *Ahluwalia* and *Roberts* Does not Create Applicant's Invention

Neither *Ahluwalia* or *Roberts* suggest a virtual seller for selling the goods of another. Thus, alone or in combination, these references cannot support a rejection of the claims under 35 U.S.C. § 103.

Roberts discloses switching from a first sales agent to a second sales agent, such as where the second sales agent has a relationship with the buyer. Both of the sales agents are representatives of the primary seller. The secondary sales agent is not a “virtual” sales agent because they are not selling the goods or services of another party, namely a primary seller.

Instead, they are the primary seller.

Meanwhile, *Ahluwalia* does not provide any suggestion for any type of secondary sales agent or secondary seller.

Meanwhile, Applicant's invention is directed to providing a primary seller that is capable of selling its own goods or services. However, when the primary seller is not optimal such as due to distance or time of day (see dependent claims), the transaction is transferred to a virtual seller which does not maintain custody or control of the primary seller's goods, but instead maintains a database for enabling it to complete the transaction.

In no way are these claimed features suggested in the prior art, and accordingly the claims should be allowed.

THE VIRTUAL SELLER IS NOT MERELY DUPLICATION
OF ESSENTIAL WORKING PARTS

In rejecting the claims, the Examiner argues that the use of a virtual seller is merely a duplication of the primary seller, and that the claims are not patentable since a duplication of essential working parts involves only routine skill in the art.

Contrary to this argument, the virtual seller is not a duplication of parts. Instead, the virtual seller is activated only "based upon predetermined criteria" which indicate that a

primary or virtual seller is to be selected. In other words, the virtual seller provides selling capabilities which the primary seller cannot. Plainly, this is not a mere duplication of parts when one element of the Claims can provide function and advantages which another cannot.

CONCLUSION

The claims in this case are believed to be in condition for allowance and notice thereof is respectfully solicited. If there are any remaining issues that need to be resolved, it is respectfully requested that a telephone call be placed to the undersigned.

Respectfully submitted,
DRUMMOND & DUCKWORTH

A handwritten signature in black ink, appearing to read "David G. Duckworth", written in a cursive style.

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